



**The State of New Hampshire  
Insurance Department**

21 South Fruit Street, Suite 14  
Concord, NH 03301  
(603) 271-2261 Fax (603) 271-1406  
TDD Access: Relay NH 1-800-735-2964

**Roger A. Sevigny**  
Commissioner

**Alexander K. Feldvebel**  
Deputy Commissioner

**BULLETIN**

**Docket No.: INS No. 10-004-AB**

**TO: All Life Insurance Companies Licensed to do Business in New Hampshire and Licensed Producers with Lines of Authority in Life and Variable Annuities**

**FROM:** Roger A. Sevigny  
Insurance Commissioner

A handwritten signature in black ink, appearing to read "RAS", is positioned above the date.

**DATE:** January 12, 2010

**RE:** Elimination of the Exclusion of Same-Gender Couples from Marriage and the Impact on Annuity Contracts

HB 436 became effective January 1, 2010. HB 436 amends RSA 457-A to eliminate the exclusion of same-gender couples from marriage and to recognize civil union partnerships as marriages under RSA 457-A. These amendments necessitate modification of the disclosure language required in Bulletin INS No. 08-030-AB released on May 1, 2008.

As discussed in Bulletin INS No. 08-030-AB, the Defense of Marriage Act (DOMA) at U.S.C.A. §7 excludes civil unions and civil union partners from the meaning of the word "marriage" or "spouse" respectively, in all federal law. Similarly, a same-gender marriage under RSA 457-A would not be considered a "marriage," nor would the spouse of a same gender marriage be considered a "spouse" under DOMA.

To provide appropriate language to consumers so they are aware of the impact of DOMA on any annuity purchased, every annuity contract, certificate, or endorsement provided to a consumer or insured shall provide the following disclosure:

***The Federal Defense of Marriage Act states that neither civil union partners nor same-gender married couples are considered married under federal law. Therefore the favorable tax treatment provided by federal tax***

***law to a surviving spouse is NOT available to a surviving civil union partner or the surviving spouse of a same-gender marriage.***

***For information regarding federal tax laws please consult a tax advisor.***

Forms are required to be submitted to the Department for approval. An expedited review will be done if the SERFF submission is accompanied by a cover letter certifying that:

- 1) The submission is for approval of the disclosure statement only,
- 2) The disclosure language conforms exactly to the disclosure language set forth in this bulletin,
- 3) The form submitted with new disclosure language was previously approved under the requirements of INS No. 08-030-AB and
- 4) The cover letter is signed by the appropriate officer of the filing company.

Any questions regarding this bulletin can be directed to Michael Wilkey at [michael.wilkey@ins.nh.gov](mailto:michael.wilkey@ins.nh.gov).